

Internal Revenue Service
memorandum

date:

to: District Counsel, Hartford

from: Acting Associate Chief Counsel (Employee Benefits and
Exempt Organizations)

subject: Your memorandum of September 9, 1991, requesting an advisory
opinion concerning the rollover of IRA funds

This technical issue was first raised in a letter dated July 12, 1991, to Senator Chafee by a taxpayer, [REDACTED] of [REDACTED]. [REDACTED] proposes that the following transaction be treated as an IRA rollover under section 402(a)(5) of the Code. The receiver for an insolvent credit union converts an IRA account into a term account at the request of the account owner. The owner then transfers, within 60 days of the conversion, an equivalent amount of funds into a newly established IRA account in a solvent financial institution.

We are actively considering this technical issue and would be pleased to provide you with an advisory opinion. However, such an advisory opinion would be "general technical information" that could neither be relied on by taxpayers (including [REDACTED]) nor cited as authority for any action by Service personnel. See IRM 4552(4). Also, Rev. Proc. 91-25, 1991-20 IRB 25, states that technical advice does not include "informal legal memoranda" furnished by the National Office.

Neither a General Counsel's Memorandum (GCM) nor a Tax Litigation Memorandum (TLM) can be cited as authority or relied on by taxpayers. It may therefore be appropriate to provide formal guidance on this issue by publishing a revenue ruling or other item in the Internal Revenue Bulletin.

Please contact Michael Gompertz at (FTS) 566-4530 if you have any questions concerning this memorandum. If you have questions concerning the substantive rollover issue, you should contact Stephen Sherman at (FTS) 343-0030.

JAMES J. McGOVERN

Enclosures:

IRM 4552

Rev. Proc. 91-25

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